

OFFICIAL GAZETTE

GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/E-9/2414/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 9-7-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Registration of Tourist Trade (Amendment) Bill, 2001

(Bill No. 54 of 2001)

A

BILL

*further to amend the Goa, Daman and Diu
Registration of Tourist Trade Act, 1982 (Act 10
of 1982).*

BE it enacted by the Legislative Assembly of Goa in the Fifty-second Year of the Republic of India as follows:-

1. *Short title and commencement.*— (1) This Act may be called the Goa Registration of Tourist Trade (Amendment) Act, 2001.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*— In section 2 of the Goa, Daman and Diu Registration of Tourist Trade Act, 1982 (Act 10 of 1982) (hereinafter referred to as the "principal Act"),—

(i) after clause (a), the following clause shall be inserted, namely:—

"(aa) 'beach shack' means a purely temporary stall of such material, size and design and for such activities on the beach as the Government may, by notification in the Official Gazette, specify;"

(ii) after clause (b) the following clause shall be inserted, namely:-

"(bb) 'chair' means chair made up of wood/steel/plastic of standard size;"

(iii) after clause (c), the following clause shall be inserted, namely:-

"(cc) 'deckbed' means bed made up of wood/steel/plastic, of size 6' x 3', with or without mattress;"

(iv) in clause (g), for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

"*Explanation 2.*— The expression 'touting' means coercing for shopping, accommodation, transportation, sight-seeing or pestering for any particular premises, person, establishment, manufacturer, vending, hawking, massaging on the beach or any other service connected with tourism with consideration of personal benefit;"

(v) after clause (k), the following clause shall be inserted, namely:-

"(kk) 'tourist season with reference to shack' means the period commencing on the first day of October of the calendar year and ending on the fifteenth day of June of the following calendar year;"

(vi) after clause (n), the following clause shall be inserted, namely:-

"(o) 'umbrella' means umbrella made up of wood/steel pole with nylon or cotton cloth top."

3. *Insertion of new sections 13 A and 13 B.*— After section 13 of the principal Act, the following sections shall be inserted, namely:-

"13 A. *Licensing of beach shacks.*— (1) Before commencement of the tourist season, the prescribed authority shall, through a public notice issued in the local newspapers, call for applications for installation of beach shacks, on such beaches as may be notified by the Government, from persons who are not employed or engaged, directly or indirectly, in any business, vocation or profession, such as tourist taxis, hotels, bars or restaurants, sale of handicrafts, souvenirs, toddy tapping, fishing or any other form of business not so specified.

(2) On receipt of such applications, the prescribed authority shall scrutinize the applications, and if found in order, grant necessary license by charging prescribed fees and on such terms and conditions as may be specified in this behalf.

(3) Where the number of eligible applicants are more than the number of beach shacks permitted on any particular beach, the selection shall be decided by draw of lots on such date and at such time as the prescribed authority may notify in this behalf.

(4) License shall be granted for putting up only one beach shack to a member of the family.

(5) Any person intending to erect a beach shack in private property shall, before he erects such shack, apply for registration to the prescribed authority in the prescribed manner.

Explanation:— For the purpose of this section, "family" shall include husband or wife, as the case may be, dependent parents

and unmarried children, provided they figure in the same ration card as the applicant.

13 B. *Licences for deckbeds, umbrellas and chairs.*— (1) Licences for putting up deckbeds, umbrellas and chairs on such beaches as the Government may, by notification in the Official Gazette, specify, shall be granted by the prescribed authority by charging prescribed fees.

(2) Number of deckbeds, umbrellas and chairs on the beach shall be as determined by the Government from time to time by notification in the Official Gazette.

(3) Deckbeds/umbrellas/chairs put up on the beaches notified under sub-section (1), shall be removed during the night time by 6.00 p.m."

4. *Amendment of section 22.*— For section 22 of the principal Act, the following shall be substituted, namely:-

"22. *Penalty for default in registration.*— (1) Any person carrying on the business of a dealer, hotel-keeper or travel agent without proper registration under this Act or in violation of any of the provisions of this Act or the rules made thereunder shall be punishable by the prescribed authority with fine which may extend to Rs. 10,000/-.

(2) Where the person on whom the penalty of fine is imposed under sub-section (1) does not, within 30 days from the date of the order imposing such penalty, pay the fine imposed, then such person shall be liable to pay, by way of penal interest, a sum of:-

(a) Rs. 100/- for each day for the first 30 days from the date of the expiry of the period of 30 days as aforesaid; and

(b) Rs. 200/- for each day thereafter for a period of 15 days.

(3) In case of failure on the part of a dealer, a hotel-keeper or travel agent to pay the fine imposed under sub-section (1) and/or penal interest under sub-section (2), the same shall be recovered as an arrears of land revenue, and the business shall be liable to be closed and the prescribed authority shall be at liberty to institute proceedings in the appropriate court of law for enforcing the closure of business.

(4) Any person erecting beach shack and/or carrying on activity therein without obtaining a license as required under section 13 A of this Act, shall be punishable with fine which may extend to Rs.10,000/-, the beach shack shall be liable for demolition and the material thereof confiscated, without any prior notice, entirely at his risk and cost.

(5) Any person erecting beach shack and/or carrying on activities therein without proper registration as required under section 13 A (5), shall be punishable with fine of Rs.1,000/- which may extend to Rs.5,000/-."

5. *Amendment of section 26.*— For section 26 of the principal act, the following shall be substituted, namely:-

"26. *Penalty for malpractice.*— If any dealer, hotel-keeper, travel agent or any other person to whom this Act may be made applicable, commits a malpractice or contravenes any other provision of this Act or the rules made thereunder in a tourist area for which no specific penalty has been provided, he shall be liable for punishment with 3 months imprisonment or with minimum fine of Rs. 2,000/- which may extend to Rs. 5,000/-. The offence under this section shall be cognizable, bailable and triable in summary manner."

6. *Amendment of section 27.*— For section 27 of the principal Act, the following shall be substituted, namely:-

"27. *Obstructing lawful authorities.*— If any person willfully obstructs or offers any resistance to, or otherwise interferes in the discharge of the functions of the prescribed authority or any officer authorized by him exercising any power, or performing any duties conferred or imposed upon it or him by or in pursuance of this Act or the Rules made thereunder, he shall be liable to punishment with imprisonment which may extend to three months or with a minimum fine of Rs. 500/- which may extend upto Rs. 2,000/- or with both. The offence under this section shall be cognizable, bailable and triable in summary manner."

7. *Amendment of section 28.*— In section 28 of the principal Act, for sub-section (1), the following shall be substituted, namely:-

"(1) Any person committing a breach of any of the provisions of the Act or the rules made thereunder for which he has been once punished with fine by the prescribed authority under any of the provisions of this Chapter, shall be punishable with imprisonment which may extend to six months or with minimum fine of Rs.1,000/- which may extend to Rs.10,000/- or with both. The offence under this section shall be cognizable, bailable and triable in summary manner."

Statement of objects and reasons

The Goa, Daman and Diu Registration of Tourist Trade Act, 1982 (Act 10 of 1982), does not contain any provision for licencing of beach shacks, chairs, deckbeds and umbrellas to be put on the beach and hence new sections 13 A and 13 B are proposed to be inserted in the said Act, 1982, so as to provide for licencing of beach shacks, deckbeds, chairs, umbrellas, etc. Consequently, new definitions, defining the terms 'beach shacks', 'chairs', 'deckbeds', 'tourist season with reference to shacks' and umbrellas are proposed for insertion in Section 2 of the said Act, 1982.

Section 22 of the said Act, 1982, lays down the penalty for default in registration. However, fine specified thereof has failed to act as deterrent and therefore, said section 22 is proposed to be substituted by new section increasing the amount of fine specified thereof from Rs. 2,000/- to Rs.10,000/- and also providing for penal interest for default in payment of fine and closure of business.

Similarly, sections 26, 27 and 28 of the said Act are proposed to be amended so as to increase the penalty of fine specified in these sections. It is also proposed that the offences under these sections shall be cognizable, bailable and triable in summary manner.

This Bill seeks to achieve the above objects.

Financial Memorandum

By bringing the amendment in the Tourist Trade Act, 1982 no financial burden is involved. However, licencing the activities of

the shacks/deckbeds/umbrellas with chairs on the beaches during the tourist season, substantial revenue will be generated which in turn would be used in maintaining the beaches.

Memorandum Regarding Delegated Legislation

Proposed sections 13 A and 13 B empower the Government to notify the beaches for the purpose as specified therein. The said sections also empower the Government to frame rules for prescribing fees as specified therein.

Porvorim, Goa
July, 2001

FILLIP NERI RODRIGUES
Minister for Tourism

Assembly Hall
Porvorim, Goa
July, 2001

R. KOTHANDARAMAN
Secretary (Legislature)

ANNEXURE

An Abstract of the Goa, Daman and Diu Registration of Tourist Trade Act, 1982

1. *Short title, extent and commencement.*—(1) This Act may be called the Goa, Daman and Diu Registration of Tourist Trade Act, 1982.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) 'boat' includes a house-boat, motor-boat, motor launch, pedal boat, sailing boat and canoe;

(b) 'certificate' means a certificate of registration issued under any of the provisions of this Act;

"(c) 'dealer' means a person carrying on in a tourist area the business of selling any notified articles, whether wholesale or retail, and whose stocks/turnover of the said notified articles exceeds 50% of their total stocks/turnover, and includes his agent or employee transacting business on his behalf."

(d) 'Government' means the Government of Goa, Daman and Diu;

(e) 'hotel' includes any premises or part of premises including a house-boat, restaurant, bar or a tent where lodging with or without board or any kind of eatables or beverages is provided for a monetary consideration;

(f) 'hotel-keeper' includes any person who owns or operates a hotel as proprietor and includes a person

managing or operating the affairs of a hotel for and on behalf of the proprietor;

(g) 'malpractice' includes cheating, touting, impersonation, obstruction in allowing free choice for shopping or stay or travel management, charging a price higher than that displayed on the label or remuneration higher than that fixed under this Act, failure to display price label on the articles, failure to give cash memos and wilful failure to execute an order within the stipulated time and according to the terms agreed.

Explanation 1.— For the purposes of this clause, labelled price (the price displayed on the label on the article) shall be the reasonable price as may be fixed by the prescribed authority.

Explanation 2.— The expression 'touting' means coercing for shopping, accommodation, transportation, sight-seeing or pestering for any particular premises, person, establishment, manufacturer or any other service connected with tourism with consideration of personal benefit;

(k) 'tourist area' means any area notified by the Government in the Official Gazette to be a tourist area for the purposes of this Act;

(n) 'travel arrangements' include —

(a) arrangements for transportation, sight-seeing;

(b) arrangements for lodging with or without food; and

(c) rendering other services, such as assistance for game, sports or receipt or despatch of personal belongings of a tourist.

13. *Hotel-keeper to present detailed bill.*— Every hotel-keeper shall render detailed bills to the persons residing in the hotel and other customers and shall give receipts in acknowledgement of all payments.

14. *Registration.*— (1) No person shall carry on the business of a travel agent unless he is registered in accordance with the provisions of this Act.

(2) Every person intending to act as a travel agent shall, before he commences to act as such, apply for registration to the prescribed authority in the prescribed manner.

(3) Notwithstanding anything contained in sub-section (2), any person already engaged in the business as a travel agent, shall apply for registration within three months from the date of commencement of this Act.

(4) Every application made under sub-section (2) shall be disposed off within a period of three months from the date of receipt of the application failing which the application shall be deemed to have been accepted for registration.

22. *Penalty for default in registration.*— (1) Any person carrying on the business of a dealer, hotel-keeper or travel agent without proper registration under this Act or in violation of any of the provisions of this Act or the Rules made thereunder shall be punishable by the prescribed authority with fine which may extend to Rs. 2,000/-.

Explanation.— A Person who has made an application within the prescribed period and which is pending disposal shall not be a defaulter for the purposes of this section.

26. *Penalty for malpractice.*— If any dealer, hotel-keeper, travel agent or any other person to whom this Act may be made applicable, commits a malpractice or contravenes any other provisions of this Act or the Rules made thereunder in a tourist area for which no

specific penalty has been provided, he shall be punishable by the prescribed authority with fine which may extend to Rs.1,000/-.

27. *Obstructing lawful authorities.*— If any person wilfully obstructs or offers any resistance to, or otherwise interferes in the discharge of the functions of the prescribed authority or any officer authorised by him exercising any power, or performing any duties conferred or imposed upon it or him by or in pursuance of this Act or the Rules made thereunder, he shall be liable to punishment with imprisonment which may extend to three months or with fine not exceeding Rs.100/- or with both.

28. *Penalty for subsequent breaches.*— (1) Any person committing a breach of any of the provisions of the Act or the Rules made thereunder for which he has been once punished with fine by the prescribed authority under any of the provisions of this Chapter, shall be punishable with imprisonment which may extend to six months or with fine which may extend to Rs. 5000/- or with both.